

20 January 1956

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT : Proposal for the Negotiated Financial
Settlement of Project []

25X1A2d1

REFERENCE : Memo to Chief, EE from []
Subject: Project [] dated 10 January 1955
and related file (attachment)

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25X1A2d1

1. As indicated in reference memorandum and related file, a report from the Chief Audit Staff indicates that an unexpended balance of an advance in the amount of \$1152.92 and net overpayments in the amount of \$8503.41 appear to be due CIA from []

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2. Discussions between [] and EE Division representatives indicate that the Company will resist, if not refuse, to make repayment of the \$8503.41 in overpayments and further will demand payment of an additional sum of \$657.00 withheld by CIA from the final billings rendered by the Company.

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3. The EE Division believes that serious operational and security factors are involved in this situation - so much so that it has been and is prepared to request that CIA consider waiver of repayment. It recognizes, however, that previous discussions with [] were not conducted with the full background of the underlying contractual agreements and that its representatives did not have the authority to effectively negotiate for the settlement of the disagreement.

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4. For operational and security reasons, it is nevertheless considered imperative that a positive course of action be authorized to bring this matter to a rapid and definitive conclusion. In addition, the facts in the case indicate that the non-recovery of the unexpended balance of advances made in 1949-50 and overpayments made over the period 1950-1954 is substantially attributable to faulty administration by CIA. Lastly, there appears to be at least some legal defense available to [] based upon either the fact that CIA "slept upon its contractual rights" for so lengthy a period, or upon the premise that for at least a portion of the total contractual period a de facto amendment of the contractual terms took place.

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5. For these reasons, authority is requested to undertake conclusive negotiations with [] on the following basis:

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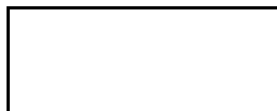
a. That competent CIA authority will designate and authorize an individual or individuals to discuss and negotiate the final settlement

SEE REVERSE FOR DECLASSIFICATION ACTION

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of the dispute by the steps and within the limits set forth in subsequent paragraphs. It is recommended that the individuals be selected from among the following because of their historic connections with the problem:

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Office of General Counsel
, Office of DD/S
EE Division

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b. That the negotiator(s) review the audit report with Mr. [redacted] and refresh his recollection of the contractual agreements by discussion of the contracts and related original negotiation discussions as supported by Agency files and the recollection of Agency participants.

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c. That [redacted] be requested to refund the entire amount due less the income taxes paid by the Company on the funds advanced by CIA or overpaid by CIA. This tax adjustment must be presumed to be equitable since all sums from CIA were revenue to [redacted]. The amount of deductible taxes would be determined merely by analyzing CIA advance and overpayment by taxable year and applying the appropriate corporate tax bracket (maximum 52%) in the years concerned.

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d. In the event [redacted] declines to settle on this basis, it is proposed to negotiate a compromise settlement wherein:

(1) CIA would recover the outstanding balance of funds advanced under the 1949-50 contract.

(2) CIA would recover the overpayments (\$2,821.25) made during the two-year term of the 1 Sept. '50 through 31 Aug. '52 contract less the taxes paid by the Company on this sum.

(3) CIA would waive recovery of overpayments made during the period 1 Sept. 1952 through 31 Dec. 1954. The basis for such waiver would be recognition of the fact that there are legal bases upon which [redacted] can reasonably contest liability for the overpayments and that for security reasons CIA can not permit such action to occur. (These bases are set forth in paragraph 4 above and in reference memorandum.)

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(4) CIA would release or offset the sum it has withheld from the final payment to [redacted] in accordance with the principle set forth in (3) above.

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(5) Upon receipt of the final settlement sum (item (1) and (2) less (4)), [] to be given a formal release against further financial liability.

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(6) The Comptroller be authorized to accept the negotiated settlement sum as final payment and the Certifying Officer and [] be relieved of any further financial liability.

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e. In the event [] declines to make settlement on either of these bases, an attempt shall be made to secure a written statement to this effect and the basis therefor. If unsuccessful, the negotiator(s) shall render a formal report attesting to the refusal.

f. EE Division, upon receipt of such refusal, shall initiate a formal operational clearance for legal action or a request for write off for operational and security reasons.

6. Regulatory authority for either partial or complete waiver of recovery of sums due CIA appears to rest in Confidential Funds Regulations 1.4d and/or CIA Regulation [] depending upon the basis of the waiver. In either event, the authority of the DCI is necessary as the sum involved exceeds the limitations in delegations to other authorities.

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[]
Chief, EE Division

Concur with proposed course of actions

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/s/ L. K. White

DD/S

In view of the fact that legal advice is essential, [] should participate in the negotiations. I assume [] presence is also essential. Hence [] is empowered to make commitments, and [] will not participate.

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/s/
LKW

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~~The course of action proposed in paragraph 5 above is recommended for approval.~~

~~DD/S~~

~~Approved - Not Approved~~

~~DCI~~

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